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Held at the Palais des Nations, Geneva,
on Tuesday, 17 November 1992, at 10 a.m.

Chairman: Mr. VOYAME

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Additional report of the Libyan Arab Jamahiriya (CAT/C/9/Add.12)

1. At the invitation of the Chairman, Mr. Hafyana, Mr. El Fakih Saleh, Ms. Markus, and Ms. Hajjaqi (Libyan Arab Jamahiriya) took places at the Committee table.

2. Mr. HAFYANA (Libyan Arab Jamahiriya) commended the Committee on its efforts to ensure the implementation of the Convention, which, since its ratification by the Jamahiriya, had taken precedence over the provisions of national law. Recalling that he had introduced his country's initial report (CAT/C/9/Add.7) in November 1991, he apologized for the delay, due to circumstances beyond Libya's control, in submitting the additional report requested by the Committee.

3. The additional report (CAT/C/9/Add.12) contained further information concerning the political system, the legislative and executive mechanisms and the judicial authority in the Jamahiriya. With regard to the legal framework for the implementation of the Convention, it explained the status of international instruments under Libya's national law and showed how their provisions were binding on the courts, justice and equity being the main objectives. With reference to the Convention, it described the provisions of the Penal Code that related to violations of personal freedoms; those of the Code of Criminal Procedure that related to the legality of arrests; and those of the Civil Code that related to compensation for damage. Judicial safeguards were the subject of a further section of the report, which described the role of the Supreme Court in relation to article 15 of the Convention and contained details on the functioning of Libya's criminal, administrative and civil courts. Great significance was attached to the existence of legislation guaranteeing the rights that the Convention sought to protect; to the possibility of remedies for the protection of those rights whenever they had been subjected to infringement or violation; and to public awareness of the importance of those rights.

4. The report dealt with other questions raised by the members of the Committee during their consideration of the initial report, particularly with regard to the role and powers of the Attorney General; the jurisdiction of the Libyan courts in the light of articles 5, 6, 8 and 9 of the Convention; the issue of extradition; the situation relating to the detention of suspects of Libyan nationality; the definition of political offences; interrogation and the persons responsible therefor; the concept of violence; offences punishable by death under the Libyan Penal Code; the situation in respect of the death penalty; conditions of detention in Libya in the light of article 6 of the Convention; and the authority responsible for monitoring detention.

5. The Libyan Arab Jamahiriya was convinced of the need to guarantee the full implementation of the Convention and was committed to the establishment of all the legal and judicial safeguards and guarantees required for the

exercise and the protection of human rights. He would willingly reply to any further questions on the matter.

6. Mr. SORENSEN (Country Rapporteur) thanked the Libyan delegation for its additional report and oral introduction, which went a long way towards answering the Committee's outstanding questions.

7. The report contained a clear description of the functioning of the political system, the legislative and executive mechanisms and the judicial authority in the Libyan Arab Jamahiriya and he welcomed the statement on the independence of the judiciary, but he wished to know whether judges could be dismissed and, if so, by which authority. Was there a statutory retirement age?

8. He had found no reference in either of the Libyan reports to a constitutional court. Did the Supreme Court exercise that function in determining, for example, the legality of legislation and the consistency of Libya's laws with the Great Green Document on Human Rights in the Age of the Masses.

9. Noting that the Attorney General was "vested by law with sole competence to initiate criminal proceedings", he asked whether injured parties could request him to do so. Who were the parties who could bring allegations of torture: victims; their relatives; their neighbours? Could the Attorney General refuse to entertain complaints and, if so, was any alternative remedy available, before the administrative or criminal courts, for example? It was stated on page 9 of the report that article 30 of the Libyan Code of Criminal Procedure corresponded to article 13 of the Convention, where the right to complain was provided for, but statistics on the number of complaints actually made would be helpful.

10. According to the Penal Code, the crime of torture or incitation to torture was punishable by a term of 3 to 10 years' imprisonment. Was the higher figure an absolute maximum, even, for example, when act of torture had resulted in the death of the victim, which was the equivalent in some countries of first-degree murder? In that connection, page 21 of the report stated that murder was a capital crime in Libya. According to page 15 of the report, however, one of the sentences handed down by the criminal courts had been six months' penal servitude for "torture and abuse of authority". That seemed to be in contradiction with the range of possible sentences he had just referred to.

11. In the section on page 8 of the report describing article 431 of the Penal Code, it was stated that a fine of up to 250 dinars could be imposed on any public official who "uses violence". He assumed that "violence" meant acts falling short of torture. The amount of fine, equivalent to about US$ 750, seemed rather small. Was an upper limit set for the prison sentence associated with the fine or was that left to the judge's discretion?

12. Compensation, the subject of article 14 of the Convention, was dealt with in the Libyan report under the headings of the Civil Code, the Great Green Document on Human Rights and the People's Court Act. Was it necessary to await a verdict before a claim for compensation could be filed? If a person

found guilty of an act of torture was unable to pay compensation in the required manner, did the State assume that responsibility? Were there many claims for compensation?

13. Concerning the Promotion of Freedom Act and the parts of the report which dealt with interrogation and the duration of custody, he requested the following clarifications on the rights of detained persons, especially during the critical period immediately after they had been taken in charge by the police: how soon must the next of kin of a person detained be notified; could persons be held incommunicado and, if so, for how long; when exactly was access to legal counsel allowed; could a detained person remain silent until his lawyer was present; what rules governed medical attendance; after how long must a detained person be brought before a judge; and at what point were detained persons informed of their rights?

14. He noted with satisfaction that the extradition from Libya of political refugees was prohibited, although article 3 of the Convention made substantial grounds for believing there to be a danger of torture a reason for the non-extradition of any person: was that the case in Libya?

15. As to page 21 of the report referring to the death penalty, he welcomed the indication that consideration was being given to the restriction of death sentences to a limited number of capital crimes. He was somewhat surprised that economic crimes should be punishable by death under the Libyan Penal Code and he asked how the death sentence was imposed.

16. On the subject of prison conditions, he asked whether inspections by representatives of non-governmental organizations were permitted and whether the complaints procedure for prisoners provided for uncensored access in writing to the Committee against Torture in Geneva, for example.

17. Lastly, he stressed the importance of education in all aspects of human rights and of special education in matters relating to torture in order to enable border police, doctors and members of the health profession to identify victims of torture and take appropriate action. Was such education provided in Libya?

18. Mr. BURNS (Alternate Country Rapporteur) noted that enormous efforts had obviously gone into the preparation of Libya's additional report.

19. The examples given on page 15 of the report of successful prosecutions of public officials were noteworthy and underscored the exemplary seriousness with which the Libyan authorities assumed the obligations contained in the Convention. He would not presume to comment on the adequacy or otherwise of the sentences handed down.

20. It was his understanding that, during a criminal trial, a victim of torture might apply to the criminal court for compensation and that he might independently bring a civil action. Was it established under Libyan law that the Government was also vicariously liable for the conduct of its agents and therefore responsible for paying compensation in the event that an agent found guilty was unable to do so?

21. Concerning the situation with regard to foreign nationals, he asked whether, if the Libyan authorities learned of the presence in the country's territory of a person who was a national of a country with which Libya had no extradition treaty and who was accused of torture in a country with which no extradition treaty existed either, jurisdiction existed under domestic law so that the person concerned might be arrested and brought to trial.

22. With regard to article 9 of the Convention, he asked what arrangements had been made by Libya in respect of mutual judicial assistance. Had treaties been signed with other States parties to the Convention or was article 9 itself the binding text?

23. He asked about the way in which the role of the police, the public prosecutor and examining magistrates was described in relation to periods of detention. He had found pages 18, 19 and 20 of the report somewhat confusing. On page 18, it said that "The accused must be interrogated by the office of the competent public prosecutor within 24 hours from the time at which he is referred thereto by the criminal investigation officer". He assumed that the latter was a policeman, but requested clarification. Within 24 hours following reference to the public prosecutor, the accused had to be interrogated and another decision then had to be taken on whether to release him or remand him in custody pending investigation. Different officials and different periods of time were mentioned and it was unclear which time-limits were involved. The report appeared to be saying that, when a police officer believed that a person had committed an offence, the person could not be held by the police officer for investigation unless he was willing to answer the questions put to him. That was very unusual.

24. On page 20, the report stated that "The accused can be held in custody only at a publicly designated location within the criminal jurisdiction area in which the offence was committed and he cannot be interrogated by the court without his consent". He asked whether "the court" meant the examining magistrate or some other body. It was also stated on page 20 that "The accused also has the right to refuse to answer any question that is likely to prejudice his legal status in the proceedings". However, it had been stated earlier that a police officer could hold a person only if he wished voluntarily to make a statement. A public prosecutor could hold him for 24 hours to interrogate him and then he would be referred to an examining magistrate. Those statements called for clarification. With regard to pages 18 and 19, which stated that "During that period, the office of the public prosecutor must either remand the accused in custody pending investigation or release him", he wondered whether such custody was different from that referred to on page 11 as "preventive detention". He also wished to know how preventive detention was defined, what the legal time-limits were and when it was applied.

25. As to the statement on page 20 that "The accused can be held in custody ... and he cannot be interrogated by the court without his consent", he said that it was rather strange to refer to a kind of enforced custody when a person was making a voluntary statement. In connection with the death penalty, he asked for statistics on how many persons had been sentenced to death and how many sentences had been carried out.

26. Mr. MIKHAILOV congratulated the Libyan delegation on the report, but requested it to provide further information on the constitutional system, in particular, with regard to the differences between the various branches of power. On page 2, the report referred to "people's congresses" and, on page 3, to the "General People's Congress". He requested clarification on the difference between those bodies, on how the Congress was elected and on whether political parties existed.

27. Page 8 of the report referring to article 431 of the Penal Code and article 4 of the Convention mentioned the penalties which existed for any public official who, in the discharge of his duty, used violence against any person in such a way as to detract from his dignity or cause him physical pain. Did the Penal Code also provided for penalties for public officials who inflicted mental or moral suffering? Under article 167 of the Civil Code, a person would be held responsible for his unlawful acts committed at a time when he was able to distinguish between right and wrong. He would like to know what criteria were applied in law to distinguish between right and wrong. In relation to article 3 of the Convention, article 21 of the Promotion of Freedom Act No. 20/1991 stated that "the Jamahiriya is a place of refuge for persecuted persons and freedom fighters". What was the difference between the acts of a freedom fighter and a terrorist act? What criteria were used to decide to which category an act belonged?

28. On page 18 of the report, it was stated that "The accused must be interrogated by the office of the competent public prosecutor within 24 hours from the time at which he is referred thereto by the criminal investigation officer". He requested information on how the accused was able to obtain the assistance of a defence counsel at that time.

29. Mr. GIL LAVEDRA said he welcomed the fact that there was a marked improvement in the current report by comparison with the earlier one submitted by Libya (CAT/C/9/Add.7). Like Mr. Mikhailov, he wished to have some information on the composition of the people's congresses since the report spoke of "direct popular democracy". He also asked for clarifications on the scope of the term "torture", as used in article 435 of the Penal Code, and on whether it covered both physical and psychological harm.

30. In the light of the explanations in Part One of the report of how the Convention had been incorporated into Libyan law, he asked whether the Convention itself could serve as the legal basis for the implementation of article 3, rather than article 9, paragraph 5, of the Penal Code, as referred to on page 11 of the report. He also wished to know whether detainees were entitled to medical examinations. Like Mr. Burns, he wondered how many death sentences had been carried out and what other types of punishment could be imposed for serious crimes.

31. Mr. DIPANDA MOUELLE congratulated the Libyan delegation on the additional report. While he agreed with other members of the Committee that the report answered many of the questions raised in connection with the initial report, there were still points that required clarification.

32. In the first place, replies to questions should have been given in relation to and following the order of the articles of the Convention, both

for the sake of clarity and in accordance with the general guidelines regarding the form and contents of reports to be submitted by States parties. He requested further information on the definition of torture, since the report did not give one, and asked whether moral and mental torture was punishable under Libyan law. In connection with the statement on page 5 of the report that "The Attorney General is vested by law with sole competence to institute criminal proceedings, except in cases in which a criminal action can be brought only by the injured party or by the Minister of Justice", he asked which cases were being referred to and whether, in cases in which only the Minister of Justice could institute criminal proceedings, he could decide not to do so where a citizen had informed him in writing of a violation of his human rights.

33. With regard to page 15, which listed several cases in which public officials had been tried and punished for crimes of torture, he inquired about the specific nature of penal servitude and forced labour. Were such penalties provided for in the Penal Code and were they imposed at the discretion of the judge? Was forced labour in accordance with the Convention? On page 21, it was stated that economic crimes were punishable by death under the Libyan Penal Code. He was not sure exactly what an economic crime was and whether it included offences such as forgery. Was it not true that such a penalty was out of proportion to the nature of the crime? If executions were public, they could be characterized as degrading treatment and were thus prohibited under the Convention. He requested clarifications on the organization of the judiciary and the courts and on whether the constitutional court operated as a Supreme Court. How were judges appointed and was there a disciplinary body to ensure that they carried out their duties properly?

34. He requested the Libyan delegation to provide information on the extent to which daily life in Libya and the economy of the country had been disrupted by the air embargo.

35. Mr. BEN AMMAR, commending the Libyan delegation on the additional report, said it had shown that legal and judicial authority was derived from the people and that the people's sovereignty was guaranteed through the General People's Congress and the people's congresses. Account must, however, be taken of the principle of the separation of powers. Each power had to exercise its functions as freely and as well as possible in order to ensure that citizens enjoyed their fundamental rights and that human dignity was respected. The report stressed that the judiciary was independent, but it did not explain who appointed judges or on whose decision they were promoted or punished.

36. He wished to know whether there was any organic link between the police officer or department who arrested an individual and the authority which instituted the criminal proceedings on the one hand, and the investigating authorities and the courts which handed down sentences, on the other. Clarification was needed with regard to the People's Court and its relationship with civil, criminal and other courts. Since it was stated on page 10 of the report that "the People's Court is competent to hear appeals against measures or decisions that are prejudicial to the freedom and other basic rights of citizens", he wondered whether it replaced the Appeals Court.

37. He also asked whether the Universal Declaration of Human Rights and the Convention against Torture were included in training programmes for police officers, prison officials, doctors and their assistants. Given Libya's commitment to defending fundamental freedoms, did it support the draft optional protocol to the Convention on visits to prisons and detention centres which would be submitted to the United Nations General Assembly and was it prepared to accept articles 21 and 22 of that draft optional protocol? Since torture was practised in various countries, did the Libyan Arab Jamahiriya also support the United Nations Voluntary Fund for Victims of Torture and intend to set up special medical centres to treat victims of torture, as had been done in many other countries?

38. Mr. EL IBRASHI commended Libya's efforts to give effect to the principles embodied in the Convention. With regard to the principle of the legality of legislation (rules of justice and equity) referred to on page 7 of the report, which stated that any citizen had the right to challenge the legality of any legislation that was not based on the rules of justice and equity before the courts, did that mean that the courts could repeal or amend legislation if it was incompatible with the rules of justice and equity and did it affect the principle of the constitutionality of the law in Libya?

39. Since Libya had undertaken to implement the Convention following ratification, he wondered whether the Convention had become part of Libyan legislation. He also asked whether the courts applied the Convention directly and whether an individual could, when claiming that one of this rights should be respected, base his actions on the principles embodied in the Convention. How were crimes in Libya classified as serious and lesser offences and what criteria were used?

40. He asked whether the Attorney General was responsible for investigations or whether it was the examining magistrate or another body. Did the Attorney General and the courts have the authority to consider questions concerning detention by the police? Did Libyan law provide that no case could be heard in the absence of a defence lawyer?

41. Concerning article 14 of the Convention, the report made it clear that responsibility for compensation lay with the person committing the crime. The victim had the right to be a party to prosecution and could take active part in the proceedings. In the case of administrative inquiries, however, if the court found the accused innocent, could the administrative court drop the investigation? Did the criminal and administrative courts have different areas of jurisdiction?

42. With reference to page 19 of the report, he asked whether individual amnesty annulled all responsibility. Did it extinguish both the crime and the punishment, as suggested on page 20 of the report? Could an individual sentenced to 10 years in prison be released after 6 months or was there a minimum sentence that he must serve before qualifying for an amnesty?

43. The CHAIRMAN, speaking as a member of the Committee, thanked the Libyan delegation for its report, which was much more exhaustive and informative than the previous one and had simplified the Committee's task.

44. On page 4 of the report, reference had been made, in the paragraphs on the judicial authority, to personal status courts which applied Islamic law. Were such courts competent only in civil matters or did they also have other areas of jurisdiction and, if so, what were they?

45. Page 8 of the report stated that the use of violence against persons, if accompanied by detention, constituted mental torture. Yet detention was not the only possible case of mental torture and not even the most common one. Moreover, detention was usually legitimate and he asked the Libyan delegation for clarification on how mental torture was punished under Libyan law.

46. With regard to extradition, page 11 of the report referred to article 21 of the Promotion of Freedom Act, but ruled out refoulement or expulsion and he therefore wondered whether the Libyan delegation considered that article 3 of the Convention was being directly applied.

47. The report contained no reference to article 11 of the Convention and he asked for some clarification on that provision.

48. The report of Mr. Kooijmans, the Special Rapporteur of the Commission on Human Rights on torture (E/CN.4/1992/17), referred to a letter sent by the Special Rapporteur to the Government of the Libyan Arab Jamahiriya transmitting information concerning a particular case. He noted that there had been no reply to that letter and he therefore asked the Libyan representatives if they were familiar with the case and whether they could inform the Committee how it had been followed up.

49. Mr. HAFYANA (Libyan Arab Jamahiriya) said that the Jamahiriya had always been committed to complying with its obligations under international instruments, including the Convention against Torture, and it had incorporated the Convention in its domestic legislation. He expressed his appreciation for the objectivity shown by the Committee in carrying out its important task.

50. Mr. Hafyana, Mr. El Fakih Saleh, Ms. Markus and Ms. Hajjagi (Libyan Arab Jamahiriya) withdrew.

51. The meeting was suspended at 11.50 a.m. and resumed at 12 noon.

Supplementary report of Mexico (CAT/C/17/Add.3)

52. At the invitation of the Chairman, Mr. Heller, Ms. Carvalho de Plasa and Mr. Ruiz y Avila (Mexico) took places at the Committee table.

53. Mr. HELLER (Mexico) said that Mexico shared the concern of the international community to protect fundamental human rights and, to that end, had signed and ratified a number of international and regional instruments. By acceding to the Convention against Torture, which was in harmony with the Mexican Constitution, it had reaffirmed the applicability in its territory of the rights recognized in the Convention.

54. The supplementary report (CAT/C/17/Add.3) covered the period 1988-1992 and discussed the measures adopted by the Mexican Government to prevent and punish torture.

55. Mexico attached great importance to the Convention because it covered a particularly sensitive area. His Government was convinced that universal awareness of human rights could be strengthened only through international cooperation that took account of national efforts, the responsibility of States in complying with their commitments and respect for internal jurisdiction. It was in that spirit that his delegation submitted the supplementary report, which had been drafted in June 1992.

56. Since the submission of the initial report in July 1988, there had been a number of important legislative, administrative and judicial developments.

57. When President Salinas de Gortari had inaugurated the work of the National Human Rights Commission (CNDH) on 6 June 1990, he had reaffirmed Mexico's commitment to defending, promoting and protecting the human rights of Mexicans in the country and abroad and of foreigners in the national territory, as well as to punishing those who violated such rights. Putting an end to impunity had constituted one of the CNDH's principal mandates.

58. The CNDH did not replace the bodies entrusted with the administration of justice. Instead, in many ways, it resembled the ombudsmen found in other countries. It did not interfere with the separation of powers and the independence of the judiciary. It had programmes for the follow-up of complaints of human rights violations and it proposed programmes in the legal, educational and cultural spheres, as well as action to improve compliance with the international instruments that Mexico had signed.

59. The CNDH operated at three levels. First, it investigated complaints case by case. It made public recommendations to the competent authorities and could request information from them in the course of its investigations. All its documents were made public on a periodic basis. Its transparent actions and recommendations had earned it the recognition of Mexican society and had helped to bring about a fundamental change in the relationship between the population, non-governmental organizations and official institutions.

60. The second level at which the CNDH was active was in proposing amendments to Mexican legislation and recommending accession to various international instruments in order to ensure full observance of the rule of law.

61. The CNDH's third type of activity involved the building in Mexico of a human rights culture that gave substance to the high aspiration of the Government and society to achieve the true promotion of human rights, beginning with the area of prevention, through the education and training of persons administering justice.

62. On 24 June 1992, with the unanimous approval of all the political parties, the CNDH had acquired constitutional status which guaranteed that the reforms achieved and progress made would be irreversible.

63. The new political, economic and social reality had led to a systematic revision of Mexico's legislation. The reform of the 1986 Federal Act to Prevent and Punish Torture and various amendments to the Penal Code and the Code of Penal Procedure, adopted by the Congress of the Union, had been significant steps in the development of the Mexican judicial system.

64. In that process, the Federal Executive had endorsed a number of proposals by the CNDH for the adoption of legislative and administrative measures. That was the case with the various reforms of the Federal and State Penal Codes, as well as of the Federal and Federal District Codes of Penal Procedure, which Congress had approved.

65. On a proposal by the CNDH, draft legislation had been introduced to amend the Federal Act on the Responsibilities of Public Servants with a view to making it obligatory for the latter to provide information that the CNDH requested in the course of an investigation.

66. At the last ordinary session of Congress, the Federal Executive had submitted draft legislation to amend article 102 of the Constitution so as to authorize the Congress and the state legislatures to establish human rights protection bodies. A new draft Federal Act to Prevent and Punish Torture had also been introduced.

67. The Attorney General's Office had been reorganized and the officials of the Federal Public Prosecutor's Department and its subsidiary bodies, such as the Federal Judicial Police, had become more professional. Officials in the Federal Public Prosecutor's Department must take a training course and sit a competitive examination. Federal Judicial Police officers must complete a preparatory course of 180 days after being chosen on the basis of their expertise and attitudes. Special measures had also been introduced to assist persons who were suspected of having committed illegal acts or who were under investigation by the Public Prosecutor's Department, as well as their families and the victims of the offence.

68. It had been necessary to amend the Federal Act to Prevent and Punish Torture. In its new form, the Federal Act improved on instruments for the protection of citizens and provided for harsher penalties for anyone who violated the physical or moral integrity of any human being. Article 3 of the Federal Act was based closely on the wording of the Convention against Torture.

69. The new Federal Act expanded the procedural rights of persons under investigation for an offence, ensured the rights of Indians to be defended in their own language and made provision for the benefits of a pardon or amnesty to be extended to the most needy.

70. The new legislation provided that confessions made to police authorities could not be admitted as evidence. The same applied to statements to the Public Prosecutor's Department or a judicial authority without the presence of the accused person's defence counsel, or confidant and, where appropriate, interpreter.

71. Acts of torture would be punished by 3 to 12 years in prison (2 to 10 years previously). A person found guilty had the obligation to meet the legal advice, medical and any other costs incurred to provide redress for the injury and to compensate the victim or his dependants in the case of loss of life, loss of freedom, loss of property, loss of earnings, impairment of health, unfitness to work and impairment of reputation.

72. The Federal Executive had the obligation to conduct continuing programmes for the prevention of torture.

73. One of the CNDH's first activities to promote public awareness had been to organize a national workshop against torture with the participation of distinguished Mexican and international experts. The workshop had concluded that torture was a complex and multifaceted phenomenon with legal, socio-economic, educational, psychological and moral causes and that it must be attacked at its roots, as the competent authorities had indeed been doing.

74. Subsequently, the President of the Republic had been given a package of reforms of the Federal, State and Federal District Codes of Penal Procedure aimed at ensuring that confessions made to the police authorities could no longer be admitted as evidence. The reforms guaranteed the firm but dignified treatment of persons who had broken the law.

75. The Attorney General's Office had introduced various programmes to ensure that detainees were treated well and their human rights respected. It had established special procedures and mechanisms, through its Internal Control Unit, to detect, investigate and punish torture in order to prevent impunity. In September 1991, it had created the Comprehensive Information and Care Programme for Detainees and Addicts, a mechanism to ensure full respect for individual guarantees. On 12 March 1992, the Attorney General had created the Multipartite Citizens' Committee to monitor the activities of the Attorney General's Office and ensure that they were carried out within the limits of the law. The Committee was composed of members of the main political parties.

76. For three years, the National Institute of Criminal Sciences and the Federal Judicial Police Institute had been conducting a series of programmes to improve the scientific and technical expertise needed for the investigation of offences. Emphasis had been placed on training Federal Judicial Police Officers in problems relating to the protection of human rights.

77. The relentless fight against impunity had been yielding positive results. Regarding the impact of the various measures adopted to combat torture, the number of complaints brought before the CNDH had fallen since 1990, when it had taken up its work. For the period June-December 1990, allegations of torture had headed the list of all complaints of alleged human rights violations (13.4 per cent). They had still been the leading complaint for the period December 1990-May 1991, with 13.9 per cent, but had dropped to third place (6.2 per cent) in June-December 1991 and to seventh place (only 2.9 per cent) in the latest period, from December 1991 to June 1992. The Government of Mexico was aware that the problem was not merely one of numbers and it objective was to ensure that there was no longer any reason to make such allegations.

78. In its latest half-yearly report of May 1991, the CNDH had reported that 266 public officials (110 federal, 151 local and 5 municipal) had been penalized. Criminal proceedings had been brought against 95 of those officials, a preliminary investigation had been initiated against 108 and 20 had been relieved of their functions, 24 had been suspended and 17 had received warnings.

79. From November 1991 to May 1992, the CNDH had made 110 recommendations to various authorities, 11 of which had concerned complaints of torture. From June 1990 until CNDH's fourth half-yearly report of 25 May 1992, 34 recommendations concerning torture had been made to the Attorney General's Office. In 13 cases, criminal proceedings had been instituted and 2 preliminary investigations had been started in 1990, 4 in 1991 and 7 in 1992. In only 2 of those 13 cases did the facts come within the period from May 1991 to date, coinciding with the administration of the current Attorney General of the Republic, Ignacio Morales Lechuga. Those 13 cases involved 37 public officials who had been imprisoned pending trial.

80. The various measures adopted and documented in the report reflected the firm commitment of the Government of Mexico to protect and promote human rights. Mexico would spare no effort to combat impunity and eradicate torture.

81. Mr. GIL LAVEDRA (Country Rapporteur) welcomed Mexico's very complete and informative report, which showed that a remarkable number of measures had been adopted by Mexico to combat torture. An impressive information campaign had also been carried out to promote human rights. He welcomed Mexico's determination to comply with the provisions of the Convention.

82. In considering Mexico's initial report in 1989, the Committee had praised its excellent quality and had noted Mexico's exemplary protection machinery. The Committee had nevertheless requested further information on: compensation for damages; education programmes and programmes to promote the Convention; universal jurisdiction; and the concrete application of the Convention.

83. The supplementary report gave satisfactory replies to the first two of those questions, but he still had some doubts about the question of universal jurisdiction. Since Mexico was a federal State and its individual states had powers to enact their own rules and regulations, and since article 133 of the Constitution applied only federally, he would like to be assured that the provisions of the Convention were applied throughout the territory. Although the legislation for the prevention of torture was impressive, the Committee had received many reports from non-governmental organizations about acts of torture, particularly by the judicial police, for which there appeared to be a high degree of impunity. The Special Rapporteur of the Commission on Human Rights on torture had also referred to a number of such cases in the report (E/CN.4/1992/17) and had written to the Government on the subject. In paragraph 17 of its supplementary report (CAT/C/17/Add.3), the Mexican Government itself had acknowledged that certain violations persisted and had reaffirmed its commitment to continued progress in protecting human rights and punishing those responsible for violating them.

84. It was encouraging to note that the National Human Rights Commission (CNDH) had been given constitutional status under article 112 of the Constitution. The report submitted by the CNDH had confirmed that, contrary to the legislation and to article 4, paragraph 2, of the Convention, there had been a number of cases in which the persons responsible for violations had not been punished. He noted that, of 274 recommendations made by the CNDH in respect of punishment, no action at all had been taken on 142 of them and most of the remainder had been only partially applied. The cases listed in

paragraph 100 of Mexico's report were mostly among the cases in which the CNDH had stated that its recommendations had not been applied and that no more than prior investigations had been made. He would welcome further information concerning the number of persons imprisoned for the offences described and the sentences imposed on them.

85. Of the 110 recommendations made by the CNDH during the six months up to June 1992, 42 related to the state of prisons and some specifically to the treatment of detainees and inhuman conditions of detention. There had been an alarming number of cases of murdered or missing journalists and other missing persons. The CNDH had made a classification of complaints in which complaints of torture occupied seventh place, but it was possible that some of the other complaints, such as that of arbitrary detention, might also have been torture-related.

86. The various corrective measures provided for in the amended Code of Penal Procedure and particularly the provision disallowing statements made to the police as evidence were excellent, but he wished to know whether the new measures applied only federally or whether the various states had also incorporated them into their own legislation. On the question of the right to request a medical examination as provided for in article 7 of the Convention, he had always understood that all detainees must be medically examined.

87. In view of the many legal provisions against the acts concerned, he was puzzled to know why there had been so many reports of unlawful detention and interrogation, ill-treatment and the use of coercion to extract confessions. Was volume 9, part 3, of the Police Training Manual, which stated that the objectives were to ascertain the truth, obtain confessions and collect evidence, still in operation? If so, that was seriously contrary to the provisions now in force.

88. He attached considerable importance to the programmes of the Office of the Attorney General of the Republic and would be interested to know what reports had been received in that connection. The programmes would, of course, take time to implement, but priority should be given to the need to deal with the question of impunity. During the discussion of Mexico's previous report, Mr. Burns had asked whether Mexico intended to make a declaration under article 21 of the Convention and the Mexican delegation had replied that the matter was under consideration, but the Government had to consider the question of its compatibility with the existing legislation. The new forms of control and monitoring available could help the Government in its determination to put a decisive end to the phenomenon of torture.

89. Mr. LORENZO (Alternate Country Rapporteur) joined in expressing appreciation for the comprehensive report and the oral introduction. He felt a great affinity with Mexico, which had saved the lives of many of his fellow countrymen in the past by offering them asylum from persecution.

90. With regard to the work of the National Human Rights Commission (CNDH), he would like to have more information about the conciliation process that had led to settlements out of court, as referred to in paragraph 61 of the report. Although he was very much in favour of conciliation and arbitration, he feared

that the process might lead to impunity for those responsible for offences - contrary to the provisions of the Convention, which required each State party to make acts of torture punishable.

91. He had some doubts about the figures given in paragraph 61 of the report. On the basis of those figures, there were still some 1,900 complaints on which no clear conclusion had been reached. He would be interested to know how many of them were directly or indirectly linked to torture. He had noted the statement that, without evidence, the CNDH could not support an accusation of torture. Were the victims themselves required to provide such evidence or was the CNDH required to investigate the case and secure the evidence? In the case described in paragraph 64 (b), it was stated that the alleged victim, when visited in his place of imprisonment, had affirmed that he had never been tortured, deprived of food or ill-treated. Would such a statement be sufficient to cause the CNDH to cease to investigate the complaint, bearing in mind that the person concerned might have been subjected to pressure to withdraw his allegation?

92. He was also concerned about the statement in paragraph 65 of the report that the CNDH could not intervene without a clear indication of the acts which violated human rights, how and when they had occurred, which authorities had allegedly been responsible in each case and the names and addresses of the victims. Victims were frequently unable to recognize the officials who had detained them. There had been many complaints by non-governmental organizations that detainees had been blindfolded. It was thus unreasonable to expect them to identify the persons responsible.

93. He would like to have details of the penalties imposed on the 266 public officials referred to at the end of paragraph 99. He noted that criminal proceedings had been brought in only 95 of those cases, and he asked whether, in the remaining cases, only administrative penalties had been imposed. He understood that in the Mexican legal system, administrative responsibility was distinct from criminal responsibility and there should therefore be no reason why criminal proceedings should not be instituted, in addition to administrative penalties. The general impression from a reading of the report was that those responsible for torture were enjoying impunity. A number of cases in which criminal proceedings had been brought were described in paragraph 100, but nothing was said about any penalties imposed.

94. Article 15 of the Convention required each State party to ensure that any statement established to have been made as a result of torture could not be invoked as evidence in any proceedings, yet there were repeated instances in Mexican courts in which statements made to the police were admitted as evidence and were given greater credence than subsequent statements in which they were denied. Amnesty International and other non-governmental organizations had reported many such cases, in which evidence of torture had been produced, but there had been no review of the original confessions made by the victims under police interrogation.

The meeting rose at 1.15 p.m.